

DMR ADVISORY COUNCIL MEETING
September 10, 2003, 1:00 p.m.
Minutes

A meeting of the Department of Marine Resources' (DMR) Advisory Council (AC) was held on this date at the Department's West Boothbay Harbor Laboratory. Advisory Council members attending this meeting included **Blair Pyne (Chair), Steve Train (vice-chair), David Turner, Rod Mitchell, David Pecci, Al West, Dana Temple, Bill Sutter, Craig Pendleton, Kristan Porter, Dana Rice, Sr., and Ralph Smith.** Council members not present included **Lori Howell, Allyson Jordan and Elizabeth Sheehan.** Department staff included Commissioner George Lapointe, Deputy Commissioners Lewis Flagg and David Etnier, Col. Joe Fessenden, Terry Stockwell, Sarah Cotnoir, Deirdre Gilbert, Margaret Hunter, Dan Schick and L. Churchill. Other attendees included Susan Jones (Commercial Fisheries News), Rep. Chris Rector, Rep. Leelayjane Percy, Will Hopkins, Bruce McInnis, Sherman Hoyt (Sea Grant), special license applicant Dana Morse (Sea Grant), Gray Hanna, Donald Young, Joan Amory (Working Waterfront), Richard Corver, Mike Myrick, Bill Iliffe Jr., Garry Cushman, Andy Mathieson, Eugene Witham, Ryan Miller, Mark Miller, David Cousens. Richard Wall, W. A. Ropes III, Dan Miller, Bill Oliver, Bert Witham, Jason Witham, Hewell McLain and Peter Miller.

1. Welcome

The Chair called the meeting to order shortly after 1:00 pm.
New Advisory Council members introduced themselves.

Commissioner Lapointe presented details on the process to update Advisory Council meeting protocols. Topics included maximizing everyone's time; interaction with the Commissioner's office; the Administrative Procedures Act and rulemaking; reports to be mailed instead of presented at meetings; rulemaking process description; utilize staff contacts for rulemaking; APA comment periods versus Advisory Council meetings; and special licenses.

Deputy Commissioner Etnier presented a revised set of draft bylaws and went through the updated version. Discussion and question topics included: abstention from voting; proxies; voting by phone, voting by written poll; clarify length of terms when completing a former member's term (Dep. Comm. Etnier will follow up on); and meeting facility should not be a fixed location but must be "ADA" compliant.
Motion: (B. Sutter, D. Rice) *Unanimous. Motion to vote on the next draft of the bylaws at the meeting on November 19, 2003.*

2. Approval of minutes (May 21, 2003 meeting; the June meeting was cancelled.)

Motion: (D. Turner, B. Sutter) *Unanimous. Motion to approve the minutes of the meeting held July 16, 2003.*

3. Regulations - Action

Chapter 25.93(F) Zone D Exit Ratio

T. Stockwell presented background on the rulemaking. See handout.

Motion: (K. Porter, S. Train) *To accept as written.*

Discussion. Topics of the discussion: the rule may be reconsidered after 2 years; 8 apprentices now will mean 7 enter if passed and the other goes to the top of the entry list in January 2004; the 5:1 ratio is not a new issue to Zone D as it was requested in the beginning; the limited-entry target is a 30% reduction or no less than the number of licenses in 1987; support the zone council process.

Motion continued: *Unanimous. The Council voted to approve the proposed rulemaking for Chapter 25.93(F) Zone D Exit Ratio.*

Chapter 11.19 Cobscook Bay Limits and Restrictions

T. Stockwell presented background on the rulemaking. See handout.

Motion: (C. Pendleton, B. Sutter) To accept as written.

Discussion. Topics of the discussion: spot zoning; the new Scallop Advisory Council; Cobscook Bay is unique; appropriate for Cobscook but not coast wide; supported by fishermen and enforcement.

Motion continued: Unanimous. The Council voted to approve the proposed rulemaking for Chapter 11.19 Cobscook Bay Limits and Restrictions.

Chapter 34.10(1)(B)(4)(c) Groundfish Regulations, Whiting

Dan Schick presented background on the rulemaking. See handout.

Motion: (C. Pendleton, D. Turner) To accept as written.

Discussion. Topics of the discussion: Size of fish targeted; 4 observer trips per month required by the NE Fisheries Management Council; will be closely scrutinized; remove the May first requirement; control date status; it took 8 years to establish this fishery.

Motion continued: Unanimous. The Council voted to approve the proposed rulemaking for Chapter 34.10(1)(B)(4)(c) Groundfish Regulations, Whiting.

Chapter 34 Groundfish Regulations, Federal consistency

Dep. Comm. Flagg presented background on the rulemaking. See handout.

Chair Pyne indicated a correction to the Summary of Comments; "increase" should be "decrease".

Motion: (D. Rice, K. Porter) To accept as written with the noted correction by the Chair.

Discussion. Topics of the discussion: haddock is not overfished therefore should not be limited; Maine does not have limited access with a cap in state waters therefore if too attractive Maine cannot limit access to vessels; enforcement is difficult if the federal and state rules are not consistent such as in Saco Bay; Maine versus Massachusetts rules; groundfish versus lobster fishing grounds; legislation would be required for license restrictions; Amendment 13 will ultimately make this look good and persons will want an open fishery to get into; if licenses change this could be adjusted in the future; the new Amendment 13 is due by May 1, 2004 therefore this Chapter will undergo rulemaking again by then.

Motion continued: Negative - C. Pendleton; Affirmative - all other members present; Approved: The Council voted to approve the proposed rulemaking for Chapter 34 Groundfish Regulations, Federal consistency.

Chapter 45 Shrimp, Updates with Chapter 34 Groundfish/lawsuit and technical corrections

Col. Fessenden presented background on the rulemaking. See handout.

Motion: (D. Turner, C. Pendleton) To accept as written.

No Discussion.

Motion continued: Unanimous. The Council voted to approve the proposed rulemaking for Chapter 34 Groundfish/lawsuit and technical corrections.

Chapter 26.05(B) Sea Urchin Drag Regulation, Escape Panel - Zone 2

M. Hunter presented background on the rulemaking. See handout.

Motion: (K. Porter, B. Sutter) To accept as written.

Discussion. Topics of the discussion: The Digby ring idea and review was explained; urchins found 100 miles offshore in 40 fathoms; device to measure twine; tape measure kept the measuring device simple; scallops drags are lawful.

Motion continued: Unanimous. The Council voted to approve the proposed rulemaking for Chapter 26.05(B) Sea Urchin Drag Regulation, Escape Panel - Zone 2.

4. Special License

Dana Morse, UM Sea Grant extension agent, presented his special license request to conduct scallop drag tests on 3.5 and 4-inch ring selectivity out of season. See handouts.

Motion: (K. Porter; C. Pendleton) Unanimous.

Brief discussion: Dan Schick endorsed the request citing how it compared to other scientist's work such as DuPaul and Bourne in Canada.

Motion continued: The Council voted to approve the special license request.

R. Smith, K. Porter - depart meeting.

5. Other Business

Establishment subcommittee to develop a research plan

The Commissioner presented information regarding the annual review and requested volunteers to serve on this year's sub-committee to meet with Lab Director Linda Mercer. The sub committee's results will be presented at the November meeting. The report is due to the Legislature in January or February.

Discussion topics included: non-Department personnel should write the research plan; legislative strategic planning initiative; stakeholders community meetings hosted by Don Perkins.

Volunteers: Bill Sutter, Dave Pecci, Al West

AC member updates

Craig Pendleton: Groundfish

Bill Sutter: Dragon Cement at the Mason Station

Al West: Herring; both areas closed until September 29th; The MSY by NMFS is not based on hard science.

Craig Pendleton: ASMFC shrimp season dates to be set after advisors meet.

David Turner: Herring restrictions for Downeast Maine set at meetings always held in Massachusetts and Connecticut is just wrong and the Downeast fishery will lose.

Al West - depart meeting

Craig Pendleton: Groundfish, Amendment 13 continued

Steve Train: Lobster catch status, ups and downs this year; shell disease

Dana Rice: caution about herring for the lobster bait supply

Dep. Comm. Etnier:

1) Aquaculture task force update. David Turner is serving as chair of the stakeholder advisory panel.

2) Groundfish task force update. Dave Pecci is serving on this task force.

3) Cindy Smith has been hired to staff the groundfish task force with Lew Flagg and Sue Inches.

No meeting will be held in October.

Pending proposed regulations handout briefly reviewed.

Motion: (C. Pendleton, D. Turner) Unanimous. The Council voted to adjourn.